



Wisconsin Manufacturers & Commerce

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TO: Senate Committee on Environment and Natural Resources

FROM: Jeff Schoepke, Director, Tax & Corporate Policy

DATE: February 7, 2008

RE: Senate Bill 441

Senate Bill 441 (SB 441) creates additional permitting requirements and some new environmental standards for siting a metallic mineral mine in Wisconsin. WMC opposes SB 441, and respectfully requests that members of the Senate committee on Environment and Natural Resources vote against the bill if executive action is taken.

Wisconsin has some of the most stringent laws governing metallic mining in the nation. Wisconsin's permitting process is rigorous and the environmental standards imposed to protect ground and surface water are strict. The ability of our current mining laws to protect the environment is a proven fact, and SB 441 is therefore unnecessary. The bill is a classic example of a legislative solution in search of a problem.

The Flambeau Mine near Ladysmith is an example of the success of Wisconsin's existing regulatory framework. More than 1.9 million tons of ore were removed from the Flambeau Mine between 1993 and 1997, producing 181,000 tons of marketable copper, 334,000 ounces of gold, and 3,300,000 ounces of silver. Reclamation of the site was completed in 1999.

Today the reclaimed Flambeau Mine site is a 180-acre natural area, with thriving wildlife, vegetation and a trail system for public use. The DNR reports the site to be stable, the company in substantial compliance with all regulations. The Flambeau River has shown no impacts from the project's effluent, and groundwater quality on the site has returned to pre-mine conditions. The Flambeau Mine proves our mining laws work – from permitting, to construction, through operation to reclamation, the environment was protected and in some ways, enhanced.

SB 441 seeks to create new barriers to mining, and the corresponding job and economic development benefits, based upon an irrational fear of metallic mining, rather than actual or demonstrated environmental concerns. The Flambeau experience shows there is no need to adjust our laws regulating hazardous waste handling, groundwater protection, wastewater effluent or air quality, yet this bill proposes new regulations in each of these areas.

WMC is also concerned about the negative message that passage of this legislation will send to prospective employers as they consider opportunities to bolster local economies near ore deposits in northern Wisconsin. Mining pays some of the highest blue-collar wages in the nation, and we should be looking to encourage development of projects that create family-supporting jobs. Given the current state of global mineral markets, many mineral companies are looking to make large, new investments. Just this week, U.S.

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Steel announced it will invest more than \$300 million to expand its mining operations in northern Minnesota. Northern Wisconsin's economy needs that kind of investment, but passage of this legislation would make it much more likely that these types of job creation project occur in state like Minnesota instead of Wisconsin.

Thank you for the opportunity to provide these comments, and for your thoughtful consideration of our concerns.

SB 441: No Special Treatment for Mining
Senate Committee on Environment and Natural Resources
Testimony of Bill McClenahan on behalf of the
Forest County Potawatomi Community
February 7, 2008

Good afternoon, Chairman Miller and committee members. I am Bill McClenahan of Martin Schreiber & Associates, appearing on behalf of the Forest County Potawatomi Community in support of Senate Bill 441. This bill, introduced by Sen. Hansen, will eliminate the loopholes for mining in Wisconsin's environmental laws. It holds mining to the same groundwater and hazardous waste standards as other industries – a concept supported by 90% of Wisconsin adults when we asked about it in a 2001 poll.

This bill was first introduced by Sen. Hansen, with bipartisan support, at the height of the Crandon mine controversy. As you recall, a massive zinc and copper mine was proposed to be built near the headwaters of the Wolf River. Both the mine and a tailings dump would have contained perpetually toxic wastes. The mine and the 16 million tons of wastes in the dump would have been never-ending sources of groundwater contamination. In addition, the mine waste dump would have eventually failed, potentially releasing massive amounts of additional contamination.

The Potawatomi fought the mine application in order to protect the natural resources and the quality of life in the Northwoods for future generations, as well as to protect the Northern tourism economy. The Crandon mine controversy ended when the Forest County Potawatomi Community, along with the Sokaogon Chippewa, used gaming revenues to purchase the mine site, stopping the mine permit application.

But that experience made us aware of a major loophole in Wisconsin's groundwater protection law that says mining waste is not considered hazardous waste, even if it has all the same characteristics as other hazardous wastes. Although the threat of the Crandon mine has been eliminated, it makes sense to close this loophole before a mining application may be proposed at another Wisconsin site.

The bill before you today is a simple one. It says if a general environmental standard is more stringent than a standard for mining, the

general standard will apply. It eliminates the current special treatment and loopholes for mining. It also eliminates the provision that says mining waste is not hazardous waste.

In addition, it requires that mining permits be based on predictions that match up with our state's groundwater standards, not on modeling at a further distance away. In the case of the proposed Crandon mine, the DNR had said it would enforce groundwater standards at 150 feet away, but that it would give a mine a permit based on a prediction of meeting the standards six times further – at 1,200 feet. It's worth noting that Illinois models groundwater at 150 feet, even for municipal landfills.

This bill simply requires that the modeling predictions should match what the law will require once a mine is running. Otherwise, a mine might just ask for a variance from the law once the mine is operating under the flawed permit and the pollution is occurring.

Mining should not be allowed to pollute more than similar industries or activities. For instance, mining waste sites should be subject to the same groundwater standards as landfills or hazardous waste facilities. Mining should be required to meet environmental standards that are at least as strict as those for other activities. It is worth remembering that the EPA's Toxic Release inventory shows that metallic mining is responsible for more toxic releases than any other source, and that mining is often conducted in the most sensitive ecological settings.

Mining does not deserve special exemptions. If anything, it deserves special concern. It's up to the Legislature to eliminate these environmental loopholes and to provide the needed protection against the impacts of mining and mining wastes on our groundwater.

The Potawatomi commend Sen. Hansen for introduced SB 441 and thank Chairman Miller for scheduling this hearing. We urge the committee members to support this bill to protect Wisconsin's groundwater from any future threats.

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